

III. Deputation.

Deputation allowances.

81. For deputation allowances read section 7 (e), Standing Orders, Forests.

82. An officer leaving his station to hold examinations under article 72(d) of the Civil Service Regulations, 4th edition, cannot be considered to have been on deputation according to the meaning of Article 164 (a) of the Civil Service Regulations.*

Officers leaving their station to hold examination.

IV. DISMISSALS, APPEALS AND MEMORIALS.

A. Suspension, Reduction and Dismissal.

83. The powers which are exercised by the Supreme Government in respect of the dismissal of officers of the Indian Forest Service in the provinces under their immediate control can also be exercised by the Government of Bombay as regards similar officers serving in the Bombay Presidency. The provisions of section 55 of the Indian Forest Code are not applicable to this Presidency.†

84. When a Forest officer is reduced to a lower class or grade, his name will, as a rule, be placed at the bottom of the list of officers in that class or grade; but should the Local Government under which the officer is serving desire, in any special case, that the officer degraded be placed in any other position in the lower class or grade, the fact should be stated in the order reducing the officer: this section applies also to the Provincial and Subordinate Forest Services.‡

85. Any member of the Provincial Service may be suspended by order of the Conservator. The reduction or dismissal of Extra Assistant and Extra Deputy Conservators will be ordered by the Local Government.§

86. Any member of the Subordinate Forest Service may be suspended by the Divisional Forest Officer. The reduction or dismissal of Rangers and Deputy Rangers may be made under the orders of the Conservator; also that of Foresters and of other subordinates on Rs. 15 per mensem and upwards will be ordered by the Conservator. The reduction or dismissal of guards and other subordinates of the inferior service will be ordered by the Divisional Forest Officer.

* Government Resolution, Financial Department, No. 4641, dated 18th July 1901.

† G. I. R. & A., No. 943-F, dated 6th September 1893, *vide* Government Resolution No. 7713, dated 20th October 1893.

‡ Section 56, Bengal Forest Code, 5th edition.

§ Section 58, Bengal Forest Code, 6th edition.

IV. Dismissals, Appeals and Memorials.

A. SUSPENSION, REDUCTION AND DISMISSAL—*continued.*

✓ 87. Divisional Officers have the power to fine to the extent of one month's salary any member of the Subordinate Forest Service serving under them; but fines inflicted on Rangers and Deputy Rangers require the previous sanction of the Conservator.

88. In cases of reduction or dismissal of Forest Guards when the offence is such that it may be made subject of a criminal prosecution, the case will be reported to the Conservator for determination whether a prosecution should be instituted.*

Procedure to be adopted when instituting enquiries into charges of misconduct on the part of Government servants.

✓ 89. (1) It appears desirable to summarise and amend the existing orders relating to enquiries into charges of misconduct on the part of Government officers for the information and guidance of all Heads of offices

(2) Government have noticed with regret that extreme delay sometimes occurs in the departmental enquiries, which necessarily precede further action in regard to charges of misconduct which may end in a criminal prosecution. Government desire to insist on their invariably being conducted with the utmost promptitude. Delay is most injurious both in the public interests and also in those of the officer concerned, inasmuch as it tends to render more difficult the discovery of the truth and keeps under suspicion, which may be unmerited, the individual affected.

(3) When the preliminary enquiry indicates a criminal offence, application to prosecute should at once be made to the authority empowered to dismiss, and permission should be promptly granted, if that authority agrees that there is a *prima facie* case for a prosecution and does not consider that there exist adequate reasons, which must always be recorded, for not instituting a prosecution. This procedure is, however, unnecessary in those cases generally in which the misconduct amounts only to an offence against a special law or rules relating to official duties, though made triable by the Criminal Courts. In such cases, unless there are circumstances which render a criminal prosecution advisable, the misconduct may more suitably be dealt with departmentally. On the other hand, a belief that there is not sufficient evidence to make out a *prima facie* case before a Criminal Court is not a proper reason for substituting a departmental enquiry regarding a criminal offence proper for a prosecution.

(4) On sanction to prosecute being obtained, the officer incriminated shall at once be placed before a Magistrate to be dealt with according to law. On the termination of the judicial proceedings it will be the duty of the departmental superior to consider the evidence and findings and determine whether the retention of the subordinate in the service is desirable or not. This is a matter entirely for his consideration, subject to an appeal to higher departmental authority. He is responsible for the retention or dismissal of his subordinates as may be expedient in the interests of the public service, and in the case of an

* Section 61, Bengal Forest Code, 6th edition.

IV. Dismissals, Appeals and Memorials.

A. SUSPENSION, REDUCTION AND DISMISSAL—continued.

acquittal by a Magistrate, whilst he must carefully consider the reasons, he is not justified in retaining a servant whom he believes on the evidence to be corrupt or otherwise so discredited as to be unfitted for retention in the public service. In minor matters which have been made punishable by a Court, if the superior officer has referred the matter to the decision of a Magistrate, he will be well advised to accept the Magistrate's conclusion; but it does not always follow that in such cases conviction affects an officer's character so as to necessitate his dismissal or removal from service. In the more serious cases touching the moral character of a public servant the decision as to the retention or dismissal or removal of an officer must ultimately rest with the departmental superior. The responsibility is his and cannot be avoided by the substitution of the opinion of the Magistrate or Judge for his own. Before an order of dismissal is made the officer, as a general rule, should be summoned and informed of the reasons for which it is considered proper to dismiss him, and any explanation he may have to make should be recorded and considered. When no prosecution has been instituted the departmental enquiry must be so conducted as to give to the accused servant a fair trial. This requires that he shall be confronted with the witnesses who incriminate him and be shown the documents used to substantiate the charge against him. He must be allowed to cross-examine hostile witnesses and to call in his own for examination, and his explanation must be reduced to writing and carefully considered. A departmental officer is not, it is true, bound by the technical rules of the Evidence Act, but the above principles, which are based on the universally recognised canons of fair dealing, must be attended to, and care should be taken to have the papers compiled in such manner as on their face to satisfy an appellate authority that the enquiry has been so conducted.

(5) The punishment of "dismissal" should in future be considered to be a bar to re-employment in Government service and should be reserved for serious cases. Whenever the dismissal of a public servant is ordered the order of dismissal must be in writing and must contain a clear statement of the reasons for the order.

In less serious cases of actions or omissions showing unfitness to perform the duties of a particular office or of a particular character, and where it is not thought necessary to bar re-employment under Government, the term "removal" or "discharge" should be used.

(6) These orders embody the general principle which should be followed, but do not apply to petty cases of disobedience, insubordination and the like, which are usually disposed of in correspondence, provided that the officer inflicting the punishment takes care to see that the person concerned knows with what he is charged and has had an opportunity of explaining or denying the charge.*

* General Department Circular No. 2749, dated 19th May 1905.

IV. Dismissals, Appeals and Memorials.

A. SUSPENSION, REDUCTION AND DISMISSAL—*continued*.

Appeals to the Government of India against orders of dismissal passed by Local Government to be accompanied by service book.

90. The Governor General in Council desires that when service and character books are maintained under the rules of the service they should invariably be forwarded for his inspection, together with the memorials appealing against removal or dismissal.*

91. Cases occasionally occur in which it is considered inexpedient to undertake the prosecution of Government servants who are dismissed on account of offences for which they are liable to be criminally prosecuted. I am directed to request that in future, in such cases, the reasons which render it inexpedient to undertake a criminal prosecution may be recorded at the time that the order of dismissal is passed. When there is no objection to such a course, the reasons should be included in the order of dismissal of which the dismissed servant receives a copy; but in every case a copy of the recorded reasons for not instituting a prosecution when the offender was liable to one should be forwarded, with any report that may afterwards be made on the case, to Government.†

92. Read again—

Government Resolution No. 2218, dated 18th August 1879, communicating, for general information and guidance, certain instructions laid down by the Government of India on the subject of the dismissal of public servants.

Procedure to be followed in dismissing a public servant.

In the orders circulated with the above resolution the rule was laid down that in the case of the dismissal of a public servant—

- (a) the charge against him,
- (b) his defence, and
- (c) the order thereon

should be reduced to writing.

In inviting attention to the above standing orders, His Excellency the Governor in Council is pleased further to direct for future guidance that in "all" cases of dismissal, the dismissing authority should always record in English, under his own handwriting, a statement showing briefly but clearly the charges brought against the official, the evidence supporting those charges, the motives which are supposed to have influenced him, and the opinion of the dismissing authority on each charge.‡

Notifying dismissals.

92a. Only in the case of heinous offences will dismissal be notified in the Government Gazette.‡

* G. I., H. D. (Public), No. 1926, dated 21st June 1902, *vide* Government Resolution No. 3731, dated 7th July 1902.

† G. I., H. D. (Public), No. 29—1046, dated 20th July 1881, *vide* Government Resolution No. 2568, dated 6th August 1881.

‡ Government Resolution No. 1549, dated 9th May 1883.

IV. Dismissals, Appeals and Memorials.

A. SUSPENSION, REDUCTION AND DISMISSAL—*continued.*

In notifying dismissals declaration of unfitness for re-employment in Government service in any capacity should not be made.*

✓ 92b. To enable the authorities to decide the question of reducing a pension, it is the duty of every officer to take upon himself, when occasion arises, the responsibility of putting his suspicions and the grounds thereof in writing, of recording the answer of the subordinate concerned and of passing an order which shall make clear his own opinion as to the truth or falsehood of the allegations or suspicions which have given rise to the proceedings.

✓ Furlough should not be granted to a subordinate whose conduct is under enquiry until the result of the enquiry is recorded.

✓ 93. Orders issued by the Conservator of Forests, Southern Circle, and sanctioned by Government—

(1) It has come to my knowledge that Forest Guards and others are often in the habit of overstaying their leave. It is therefore necessary that you should issue a circular order that every subordinate who is granted leave should return to his duty on the due date, but that if he should be unable to do so for very urgent* reasons he should submit a petition to the Divisional or Range Forest Officer so as to reach that officer before his leave expires giving his reasons for exceeding the period of his leave. The applicant can wait for a reply for 7 days from the date of the expiry of the leave, but if he gets no reply within that time he should rejoin his appointment forthwith.

(2) A guard who exceeds the leave granted to him and fails to communicate to the Range Forest Officer satisfactory reasons for an extension of time should be ordered to rejoin at once, and if he does not rejoin his appointment within 14 days of the expiry of his leave he should be superseded and a new man should be appointed in his place.

(3) When a subordinate is superseded for absence without leave, it should be recorded that he is superseded (not dismissed) as a man cannot be dismissed without prescribed formalities which cannot always be carried out when he is absent. Another reason for using the word "Supersession" is that it is a much less severe form of dispensing with a man's services, and does not necessarily debar his being re-employed under Government nor does it debar the re-employment of the guard by the Divisional Forest Officer; it merely debars any claim he would have had otherwise by re-employment.

* Government Resolution, General Department, No. 2501, dated 26th April 1906.

IV. Dismissals, Appeals and Memorials.

A. SUSPENSION, REDUCTION AND DISMISSAL—*concluded.*

(4) Whenever a guard goes on leave he should be informed that the leave is granted subject to these conditions, and his attention should be drawn in writing to the rules.*

93a. The expediency of inviting to retire should rarely be adopted with the object of ridding the service of an officer with a long record of unsatisfactory service. Pensions are liable to reduction, hence, when any such invitation is made, it should be clearly explained to the officer concerned that it will lie with the superior authorities to determine whether full pension is to be granted or whether it shall be reduced.†

B. Appeals.

94. On considering the right of appeal against departmental punishments at present enjoyed by public servants holding subordinate appointments in the Forest (and other) departments, the Governor in Council is of opinion that the limits laid down in section 35 of the Land Revenue Code, as regards the admissibility of appeals preferred by subordinates of the Land Revenue Department may with propriety be applied to similar officers of the Forest (and other) Department.

His Excellency the Governor in Council is accordingly pleased to direct that if any of the officers specified in the margin, whether of his own motion or on appeal from a subordinate officer's orders, pass order for fining, reducing, suspending or dismissing any officer subordinate to him whose salary does not exceed Rs. 35; or if the Commissioner of a division or the Commissioner in Sind pass any such order against an officer of the Forest (or other) Department whose salary does not exceed Rs. 99, no appeal shall lie against such order, except and provided always that at least one appeal shall lie against every order made of his own motion by any authority other than Government, for dismissing an officer whose monthly salary exceeds Rs. 35.

Conservators and Deputy Conservators in charge of Circles.
Collector of a district.

There is no appeal against a fine not exceeding one rupee.

His Excellency the Governor in Council is further pleased to direct that no appeal lies against any order for inflicting a fine not exceeding one rupee.‡

C. Memorial.

95. (i) Every officer wishing to address a memorial to Government shall do so separately and not in concert with others, but this prohibition against the submission of joint memorials is not intended to apply to or affect the private interchange of individual opinions.

Rules regulating the submission of memorials.

* Government Resolution No. 3297, dated 27th August 1906.
† Government Resolution No. 1348, dated 18th February 1897.
‡ Government Resolution No. 3010, dated 14th May 1900.